

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Juhani LATVAKOSKI
Application No. : 09/980,897
Filing Date : March 25, 2002
Group : 2616
Examiner : Min Jung
Title : METHOD FOR ALLOCATING COMMUNICATION
RESOURCES

April 29, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

REQUEST FOR COMPLETE OFFICE ACTION

Applicant gratefully acknowledges the currently outstanding second Office Action dated January 29, 2007 rejecting the pending claims. Unfortunately, the Office Action incorrectly concludes that applicant's arguments against the rejection are moot. However, applicant's arguments are not moot because they address the same prior art reference that is still being applied to reject the pending claims. It is therefore requested that the second Office Action be corrected or supplemented to include responses to applicant's arguments against the applied prior art reference.

The first Office Action dated June 2, 2006 rejected all of the pending claims (claims 1-50), as being anticipated by US Patent No. 6,347,091 issued to Wallentin et al (see part 6 on

pages 3-5). Specifically, the rejection relied upon the statement at col. 6, lines 46-49, that an optimal channel type "may be dynamically/adaptively determined and allocated based on a single, relatively simple parameter such as the amount of data currently stored in a connection queue..." In the Amendment and Response filed on November 2, 2006, applicants submitted arguments responding to this reliance upon the Wallentin patent. Specifically, applicants stated the following:

"Wallentin provides packet data services where packet data connections are established between a mobile station and radio access network. Specifically, Wallentin uses one of a plural of different types of radio channels bearing the packet data connections over a radio interface. Using the Channel Select routine shown in Fig. 4 of the patent, Wallentin determines the best type of channel to carry future packet data to be sent over the packet data connection from a single measured parameter. Specifically, the optimal channel type is dynamically/adaptively determined and allocated based on a single relatively simple parameter, that parameter being the amount of data currently stored in a connection queue.

Contrasting Wallentin now with the claims, instead of allocating one of the communication resources based on the size of at least one packet to be transferred as recited in the amended independent claims, Wallentin only determines the amount of space remaining in each of the queues and uses that parameter. Wallentin does not allocate one of the communication resources "based on the size of at least one packet to be transferred" as recited in the claims. Nor is "information relating to the size of the at least one packet to be transferred" provided to a network element in Wallentin performing the allocating step." (underlining added to indicate language repeated applied in rejections)

In part 6 on pages 3-5 of the current Office Action, the pending claims are rejected as being obvious based on the Wallentin patent, and the same language is again quoted and relied upon in the rejection. However, the current Office Action does not address applicant's arguments against the patent.

Part 7 on page 5 of the current Office Action includes Form Paragraph 7.38, which states that applicants' arguments against the obviousness rejection are moot, but this is not the case. Applicants' arguments are still applicable since the Wallentin patent is still being relied upon to reject the claims. The MPEP includes an Examiner Note to Form Paragraph 7.38 which states

that the examiner "must, however, address any arguments presented by the applicant which are still relevant to any references being applied." Therefore, since the Wallentin patent is still being applied, even if in an obviousness rejection, applicants' arguments against it are still relevant and must be addressed.

Conclusion

Applicants respectfully request that the current Office Action be corrected or supplemented to include a response to applicants' arguments against the Wallentin patent. Pursuant to MPEP 710.06, applicants request that they have a period of at least one month in which to respond to any corrected or supplemental Office Action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert M. Bauer", is written over a horizontal line.

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